

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

JOSHUA GLENN MAYNARD,

Plaintiff,

v.

Civil Action No. 2:15-cv-13031
(Formerly Logan County Civil Action No. 15-C-202)

**SOUTHERN COAL CORPORATION,
a foreign corporation,**

Defendant.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C §§ 1441 and 1446, the Defendant, Southern Coal Corporation, hereby gives notice of removal of the above-captioned matter, Civil Action No. 15-C-202, formerly pending in the Circuit Court of Wyoming County, West Virginia, to the United States District Court for the Southern District of West Virginia, Charleston Division.

In support of removal, the Defendant states as follows:

1. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) in that it is being filed within thirty (30) days of the first date Defendant was served with a copy of the Complaint. The Complaint was served upon the Secretary of State of West Virginia on behalf of the Defendant on August 10, 2015.
2. The Circuit Court of Logan County is located within the Southern District of West Virginia, Charleston Division. Local Rule of Civ. Proc. 77.2.
3. Pursuant to 28 U.S.C. § 1446, copies of all process and pleadings served upon the Defendant, along with a certified copy of the State Court Docket Sheet, are attached hereto as Exhibit "A".

4. A copy of the Notice of Removal, along with a Notice of Filing of Notice of Removal is being sent to the opposing party and filed with the Clerk of the Circuit Court of Logan County, West Virginia.
5. By filing this Notice of Removal, Defendant does not waive any available defenses.

Diversity Jurisdiction

6. On July 13, 2015, Plaintiff, Joshua Glenn Maynard, filed his Complaint in the Circuit Court of Logan County alleging against the Defendant claims of wrongful termination, workers' compensation discrimination and disability discrimination in violation of the West Virginia Human Rights Act.
7. This action is properly removable under 28 U.S.C. § 1441, and this Court has original jurisdiction of this case under 28 U.S.C. § 1332 (a), as amended which provides, in pertinent part as follows:
 - (a) The district court shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and cost, and is between –
 - (1) Citizens of different states...
8. Plaintiff is a citizen and resident domiciled in the State of West Virginia and is thus a "citizen" of West Virginia for purposes of diversity jurisdiction under 28 U.S.C. § 1332 (a). (Complaint, ¶ 1).
9. Southern Coal Corporation is a corporation organized under the laws of the State of Delaware (Complaint ¶2). Accordingly, the Defendant is a "citizen" of Delaware, with its principal place of business in Roanoke, Virginia, for purposes of diversity jurisdiction under 28 U.S.C. § 1332 (a).

Amount in Controversy

10. Upon information and belief, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

Defendant reserves the right to amend or supplement this Notice of Removal or to present additional arguments in support of its entitlement to remove this case.

Respectfully submitted,

SOUTHERN COAL CORPORATION,

By Counsel

/s/ John F. Hussell, IV

John F. Hussell, IV (WV Bar ID #: 6610)

Andrew L. Ellis (WV Bar ID #: 10618)

John D. (Jody) Wooton, Jr. (WV Bar ID #: 10571)

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Defendant.

CERTIFICATE OF SERVICE

I, John F. Hussell, IV, hereby certify that on the 9th day of September, 2015, I electronically filed the foregoing “**Notice of Removal**” with the Clerk of the Court using CM/ECF system, which will send notification of such filing to the following CM/ECF participants, and that a copy of said document was sent by first-class mail, postage prepaid, addressed to the following:

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/s/ John F. Hussell, IV